

Jonathan E. Hembree (State Bar No. 274051)

Michael J. Terhar (State Bar No. 89491)

Carl J. Basile (State Bar No. 251267)

CUNNINGHAM SWAIM, LLP

2 North Lake Avenue, Suite 550

Pasadena, California 91101

Telephone: (626)765-3000

Facsimilie (626) 765-3030

Email: jhembree@cunninghamswaim.com

Email: mterhar@cunninghamswaim.com

Email: cbasile@cunninghamswaim.com

Michelle Moe Witte (admitted *Pro Hac Vice*)

MARTIN, PRINGLE, OLIVER, WALLACE & BAUER, LLP

645 E. Douglas, Suite 100

Wichita, KS 67202

Telephone: (316) 265-9311

Facsimile: (316) 265-2955

Email: mmwitte@martinpringle.com

Attorneys for Defendant Mid-Continent Instruments Co., Inc.

Daniel E. Hoffman (105841)

LAW OFFICES OF SCOTT WARMUTH, APC

17700 Castleton Street, Suite 168

City of Industry, CA 91748

Email: dhoffman@law888.com

Attorneys for Plaintiff David Curry

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DAVID CURRY, an individual,
Plaintiff,

v.

MID-CONTINENT INSTRUMENTS
CO., INC., a Texas Corporation,

Defendants.

Case No. 2:24:-cv-6331-HDV-RAOx

**DISCOVERY MATTER:
STIPULATED PROTECTIVE
ORDER¹**

¹ This Stipulated Protective Order is substantially based on the model protective order provided under Magistrate Judge Rozella A. Oliver's Procedures.

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

B. GOOD CAUSE STATEMENT

This is a wrongful termination and retaliation case. Plaintiff alleges he was terminated for reporting what he believed were unsafe or improper safety practice regarding the use of acetone at Defendant's facility. However, Defendant claims that it terminated Plaintiff for violation of its sexual harassment policy. Consequently, the parties agree that it may be necessary for Defendant to disclose information about the employee sexual harassment complaints that it received and its subsequent investigation. The parties acknowledge that Defendant has an obligation to protect those who report claims or otherwise participate in investigations of sexual harassment from retaliation, and therefore desire to protect such information from public disclosure and from use for any purpose other than prosecution of this action. This case is also likely to involve the production of plaintiff's personnel records, income and tax information, personal and confidential information regarding non-parties, defendant's procedures and policies, information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common

1 law, and for which special protection from public disclosure and from use for any
2 purpose other than prosecution of this action is warranted. Accordingly, to expedite
3 the flow of information, to facilitate the prompt resolution of disputes over
4 confidentiality of discovery materials, to adequately protect information the parties
5 are entitled to keep confidential, to ensure that the parties are permitted reasonable
6 necessary uses of such material in preparation for and in the conduct of trial, to
7 address their handling at the end of the litigation, and serve the ends of justice, a
8 protective order for such information is justified in this matter. It is the intent of the
9 parties that information will not be designated as confidential for tactical reasons
10 and that nothing be so designated without a good faith belief that it has been
11 maintained in a confidential, non-public manner, and there is good cause why it
12 should not be part of the public record of this case.

13
14 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL

15 The parties further acknowledge, as set forth in Section 12.3, below, that this
16 Stipulated Protective Order does not entitle them to file confidential information
17 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed
18 and the standards that will be applied when a party seeks permission from the court
19 to file material under seal.

20 There is a strong presumption that the public has a right of access to judicial
21 proceedings and records in civil cases. In connection with non-dispositive motions,
22 good cause must be shown to support a filing under seal. *See Kamakana v. City and*
23 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006); *Phillips v. Gen. Motors*
24 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002); *Makar-Welbon v. Sony Electronics,*
25 *Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
26 require good cause showing), and a specific showing of good cause or compelling
27 reasons with proper evidentiary support and legal justification, must be made with
28 respect to Protected Material that a party seeks to file under seal. The parties' mere

1 designation of Disclosure or Discovery Material as CONFIDENTIAL does not—
2 without the submission of competent evidence by declaration, establishing that the
3 material sought to be filed under seal qualifies as confidential, privileged, or
4 otherwise protectable—constitute good cause.

5 Further, if a party requests sealing related to a dispositive motion or trial, then
6 compelling reasons, not only good cause, for the sealing must be shown, and the
7 relief sought shall be narrowly tailored to serve the specific interest to be protected.
8 *See Pintos v. Pacific Creditors Ass’n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For
9 each item or type of information, document, or thing sought to be filed or introduced
10 under seal in connection with a dispositive motion or trial, the party seeking
11 protection must articulate compelling reasons, supported by specific facts and legal
12 justification, for the requested sealing order. Again, competent evidence supporting
13 the application to file documents under seal must be provided by declaration.

14 Any document that is not confidential, privileged, or otherwise protectable in
15 its entirety will not be filed under seal if the confidential portions can be redacted.
16 If documents can be redacted, then a redacted version for public viewing, omitting
17 only the confidential, privileged, or otherwise protectable portions of the document
18 shall be filed. Any application that seeks to file documents under seal in their
19 entirety should include an explanation of why redaction is not feasible.
20

21 2. DEFINITIONS

22 2.1 Action: [this pending federal lawsuit]. [*Option: consolidated or
23 related actions.]

24 2.2 Challenging Party: a Party or Non-Party that challenges the
25 designation of information or items under this Order.

26 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
27 how it is generated, stored or maintained) or tangible things that qualify for
28 protection under Federal Rule of Civil Procedure 26(c), and as specified above in

1 the Good Cause Statement.

2 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
3 their support staff).

4 2.5 Designating Party: a Party or Non-Party that designates information or
5 items that it produces in disclosures or in responses to discovery as
6 “CONFIDENTIAL.”

7 2.6 Disclosure or Discovery Material: all items or information, regardless
8 of the medium or manner in which it is generated, stored, or maintained (including,
9 among other things, testimony, transcripts, and tangible things) that are produced or
10 generated in disclosures or responses to discovery in this matter.

11 2.7 Expert: a person with specialized knowledge or experience in a matter
12 pertinent to the litigation who has been retained by a Party or its counsel to serve as
13 an expert witness or as a consultant in this Action.

14 2.8 House Counsel: attorneys who are employees of a party to this Action.
15 House Counsel does not include Outside Counsel of Record or any other outside
16 counsel.

17 2.9 Non-Party: any natural person, partnership, corporation, association or
18 other legal entity not named as a Party to this action.

19 2.10 Outside Counsel of Record: attorneys who are not employees of a
20 party to this Action but are retained to represent or advise a party to this Action and
21 have appeared in this Action on behalf of that party or are affiliated with a law firm
22 that has appeared on behalf of that party, and includes support staff.

23 2.11 Party: any party to this Action, including all of its officers, directors,
24 employees, consultants, retained experts, and Outside Counsel of Record (and their
25 support staffs).

26 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
27 Discovery Material in this Action.

28 2.13 Professional Vendors: persons or entities that provide litigation

support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

4. DURATION

Once a case proceeds to trial, information that was designated as CONFIDENTIAL or maintained pursuant to this protective order used or introduced as an exhibit at trial becomes public and will be presumptively available to all members of the public, including the press, unless compelling reasons supported by specific factual findings to proceed otherwise are made to the trial judge in advance of the trial. *See Kamakana*, 447 F.3d at 1180-81 (distinguishing “good cause” showing for sealing documents produced in discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items or oral or written communications that qualify so that other portions of the material, documents, items or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (*e.g.*, paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that contains protected material. If only a portion of the material on a page qualifies for

1 protection, the Producing Party also must clearly identify the protected portion(s)
2 (e.g., by making appropriate markings in the margins).

3 A Party or Non-Party that makes original documents available for inspection
4 need not designate them for protection until after the inspecting Party has indicated
5 which documents it would like copied and produced. During the inspection and
6 before the designation, all of the material made available for inspection shall be
7 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
8 documents it wants copied and produced, the Producing Party must determine which
9 documents, or portions thereof, qualify for protection under this Order. Then,
10 before producing the specified documents, the Producing Party must affix the
11 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
12 portion of the material on a page qualifies for protection, the Producing Party also
13 must clearly identify the protected portion(s) (e.g., by making appropriate markings
14 in the margins).

15 (b) for testimony given in depositions that the Designating Party identifies
16 the Disclosure or Discovery Material on the record, before the close of the
17 deposition all protected testimony.

18 (c) for information produced in some form other than documentary and
19 for any other tangible items, that the Producing Party affix in a prominent place on
20 the exterior of the container or containers in which the information is stored the
21 legend “CONFIDENTIAL.” If only a portion or portions of the information
22 warrants protection, the Producing Party, to the extent practicable, shall identify the
23 protected portion(s).

24 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
25 failure to designate qualified information or items does not, standing alone, waive
26 the Designating Party’s right to secure protection under this Order for such material.
27 Upon timely correction of a designation, the Receiving Party must make reasonable
28 efforts to assure that the material is treated in accordance with the provisions of this

Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et seq.

6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or item designated
4 “CONFIDENTIAL” only to:

5 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
6 well as employees of said Outside Counsel of Record to whom it is reasonably
7 necessary to disclose the information for this Action;

8 (b) the officers, directors, and employees (including House Counsel) of
9 the Receiving Party to whom disclosure is reasonably necessary for this Action;

10 (c) Experts (as defined in this Order) of the Receiving Party to whom
11 disclosure is reasonably necessary for this Action and who have signed the
12 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (d) the court and its personnel;

14 (e) court reporters and their staff;

15 (f) professional jury or trial consultants, mock jurors, and Professional
16 Vendors to whom disclosure is reasonably necessary for this Action and who have
17 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (g) the author or recipient of a document containing the information or a
19 custodian or other person who otherwise possessed or knew the information;

20 (h) during their depositions, witnesses, and attorneys for witnesses, in the
21 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
22 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
23 will not be permitted to keep any confidential information unless they sign the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
25 agreed by the Designating Party or ordered by the court. Pages of transcribed
26 deposition testimony or exhibits to depositions that reveal Protected Material may
27 be separately bound by the court reporter and may not be disclosed to anyone except
28 as permitted under this Stipulated Protective Order; and

1 (i) any mediator or settlement officer, and their supporting personnel,
2 mutually agreed upon by any of the parties engaged in settlement discussions.

3
4 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
5 IN OTHER LITIGATION

6 If a Party is served with a subpoena or a court order issued in other litigation
7 that compels disclosure of any information or items designated in this Action as
8 “CONFIDENTIAL,” that Party must:

9 (a) promptly notify in writing the Designating Party. Such notification
10 shall include a copy of the subpoena or court order;

11 (b) promptly notify in writing the party who caused the subpoena or order
12 to issue in the other litigation that some or all of the material covered by the
13 subpoena or order is subject to this Protective Order. Such notification shall include
14 a copy of this Stipulated Protective Order; and

15 (c) cooperate with respect to all reasonable procedures sought to be
16 pursued by the Designating Party whose Protected Material may be affected.

17 If the Designating Party timely seeks a protective order, the Party served with
18 the subpoena or court order shall not produce any information designated in this
19 action as “CONFIDENTIAL” before a determination by the court from which the
20 subpoena or order issued, unless the Party has obtained the Designating Party’s
21 permission. The Designating Party shall bear the burden and expense of seeking
22 protection in that court of its confidential material and nothing in these provisions
23 should be construed as authorizing or encouraging a Receiving Party in this Action
24 to disobey a lawful directive from another court.

25
26 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
27 PRODUCED IN THIS LITIGATION

28 (a) The terms of this Order are applicable to information produced by a

1 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
2 produced by Non-Parties in connection with this litigation is protected by the
3 remedies and relief provided by this Order. Nothing in these provisions should be
4 construed as prohibiting a Non-Party from seeking additional protections.

5 (b) In the event that a Party is required, by a valid discovery request, to
6 produce a Non-Party’s confidential information in its possession, and the Party is
7 subject to an agreement with the Non-Party not to produce the Non-Party’s
8 confidential information, then the Party shall:

9 (1) promptly notify in writing the Requesting Party and the Non-Party
10 that some or all of the information requested is subject to a confidentiality
11 agreement with a Non-Party;

12 (2) promptly provide the Non-Party with a copy of the Stipulated
13 Protective Order in this Action, the relevant discovery request(s), and a reasonably
14 specific description of the information requested; and

15 (3) make the information requested available for inspection by the
16 Non-Party, if requested.

17 (c) If the Non-Party fails to seek a protective order from this court within
18 14 days of receiving the notice and accompanying information, the Receiving Party
19 may produce the Non-Party’s confidential information responsive to the discovery
20 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
21 not produce any information in its possession or control that is subject to the
22 confidentiality agreement with the Non-Party before a determination by the court.
23 Absent a court order to the contrary, the Non-Party shall bear the burden and
24 expense of seeking protection in this court of its Protected Material.

25
26 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

27 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
28 Protected Material to any person or in any circumstance not authorized under this

1 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
2 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
3 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
4 persons to whom unauthorized disclosures were made of all the terms of this Order,
5 and (d) request such person or persons to execute the “Acknowledgment and
6 Agreement to Be Bound” that is attached hereto as Exhibit A.

7
8 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
9 PROTECTED MATERIAL

10 When a Producing Party gives notice to Receiving Parties that certain
11 inadvertently produced material is subject to a claim of privilege or other protection,
12 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
13 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
14 procedure may be established in an e-discovery order that provides for production
15 without prior privilege review. The inadvertent disclosure or production of any
16 information or document that is subject to an objection on the basis of attorney
17 client privilege or work product protection, including, but not limited, to information
18 or documents that may be considered Confidential Information under the Protective
19 Order, will not be deemed to waive a party’s claim to its privileged or protected
20 nature or estop that party or the privilege holder from designating the information or
21 document as attorney client privileged or subject to the work product doctrine at a
22 later date. Any party receiving any such information or document must return it
23 upon request to the producing party. Upon receiving such a request as to specific
24 information or documents, the receiving party must return the information or
25 documents to the producing party within fourteen days, regardless of whether the
26 receiving party agrees with the claim of privilege and/or work product protection.
27 Disclosure of the information or document by the other party prior to such later
28 designation will not be deemed a violation of the provisions of this Order. The

provisions of this section constitute an order pursuant to Rules 502(d) and (e) of the Federal Rules of Evidence.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Local Civil Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

13. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or

1 destroyed and (2) affirms that the Receiving Party has not retained any copies,
2 abstracts, compilations, summaries or any other format reproducing or capturing any
3 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
4 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
5 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
6 reports, attorney work product, and consultant and expert work product, even if such
7 materials contain Protected Material. Any such archival copies that contain or
8 constitute Protected Material remain subject to this Protective Order as set forth in
9 Section 4 (DURATION).

10
11 14. VIOLATION

12 Any violation of this Order may be punished by appropriate measures including,
13 without limitation, contempt proceedings and/or monetary sanctions.

14
15 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

16
17 DATED: October 10, 2024

18
19 /s/ Daniel E. Hoffman (105841)
20 Attorneys for Plaintiff David Curry

21
22 DATED: October 10, 2024

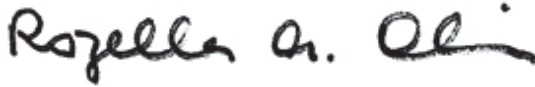
23
24 /s/Michelle Moe Witte (KS Bar No. 22620, admitted pro hac vice)
25 Attorneys for Defendant Mid-Continent Instruments Co., Inc.

26 DATED: October 10, 2024

27 /s/Jonathan Hembree (274051)
28 Attorneys for Defendant Mid-Continent Instruments Co., Inc.

1 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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3 DATED: 10/11/2024

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6 HON. ROZELLA A. OLIVER
United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on [date] in the case of David Curry v. Mid-Continent Instruments Co., Inc., Case
No. 2:24:-cv-6331-HDV-RAOx. I agree to comply with and to be bound by all the
terms of this Stipulated Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of
contempt. I solemnly promise that I will not disclose in any manner any
information or item that is subject to this Stipulated Protective Order to any person
or entity except in strict compliance with the provisions of this Order.
I further agree to submit to the jurisdiction of the United States District Court for the
Central District of California for enforcing the terms of this Stipulated Protective
Order, even if such enforcement proceedings occur after termination of this action.
I hereby appoint _____ [print or type full name] of
_____ [print or type full address and
telephone number] as my California agent for service of process in connection with
this action or any proceedings related to enforcement of this Stipulated Protective
Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____